



matter was heard by the PELRB on April 22, 1993.

FINDINGS OF FACT

1. The Alton School District is a "public employer" of teachers and other employees within the meaning of RSA 273-A:1 X.
2. The Alton Teachers Association is the duly certified bargaining agent for teachers and other personnel employed by the district.
3. The Association and the District are parties to a collective bargaining agreement (CBA) which has expired. They have been engaged in negotiations for a successor agreement since the fall of 1991. Article XIII of the expired CBA provides that it "will remain in full force and effect until August 31, 1992 and thereafter renew itself automatically for successive terms of one year or until a successor agreement has been ratified."
4. The expired CBA requires teachers "ordinarily... to report twenty minutes before the A.M. warning bell and they will remain thirty minutes beyond the school day except whenever additional time is reasonably required to carry out their professional obligations." Article 2.2 provides a duty-free lunch period each day. "Teachers in grades K-6 shall have no less than two hundred minutes of preparation time per normal week of school. Teachers in grades 7-12 shall have one preparation period per school day." With the exception of the foregoing exceptions, the length and content of teachers' work days is not further set forth in the expired CBA.
5. For at least five years prior to School Year 1992-93, lunch duty was performed by teachers whose schedules permitted them to volunteer to do so. Teachers who volunteered to perform this coverage were paid an additional stipend for that coverage, at approximately \$7.00 per hour, paid in two increments in December and at the end of the school year. Teachers who volunteered for this extra duty frequently lost their contractually mandated duty-free lunch period, thus causing them to eat during duty, during a preparation period, or to skip lunch entirely.
6. In the course of negotiating for a successor CBA, the parties engaged in fact finding as contemplated

by RSA 273-A:12. The fact finder's recommendations were rejected by the District in March of 1992. Thereafter, the District proposed a modification in the protected duty-free lunch language found at Article 2.2 of the CBA but withdrew that proposal in favor of current language in July of 1992.

7. Mary Christie, a high school teacher who performed compensated lunch duty for five prior school years was told by an assistant principal in September of 1992 that he could not use her or any teacher for compensated lunch duty for 1992-93.
8. During September and part of October, 1992, lunch duty coverage was first performed by 2 lay persons. After one left, coverage was performed by the remaining person plus the principal or assistant principal. Management considered this inadequate. On September 28, 1992, the Alton School Board voted to hire two lunch room monitors and substitute monitors at \$5.00 per hour. No one applied.
9. The school "Daily Bulletin" of October 13, 1992 announced a schedule of teachers assigned to lunch duty effective on that date. Neither this change nor its impact had been the subject or results of collective negotiations. No additional compensation was paid for this duty but teachers assigned to it were relieved of other duties so that both duty-free lunch periods and contract preparation time remained protected.
10. On October 14, 1992, Association President Charles Downie wrote to Jack Henderson, Chairman of the Alton School Board requesting negotiations on "the arbitrary assignment of lunchroom duties." On October 27, 1992, Superintendent Brigman wrote to Downie to tell him that the Alton School Board had voted to deny the request to open negotiations on the issue of lunchroom duties. Thereafter, the case was processed through the grievance procedure and was denied by the building principal on November 19, 1992, by the Superintendent on December 15, 1992, and by the Board on February 23, 1993.

#### DECISION AND ORDER

This case is the product of a particular set of circumstances matched to specific contract language. The contract language (Finding No. 4) protects a duty-free lunch period and preparation time. From the circumstances of this case, it appears that neither was lost or diminished by the manner in which the District assigned

lunch duties, with relief from other duties normally performed by teachers. There was no increase in the contractually agreed upon "work day." We concur with the District's request for findings (No. 13), namely, that the "CBA does not contractually constrain the Alton School Board or the Alton administrators from assigning Alton teachers a 22 to 30 minute cafeteria duty on a rotating basis as long as each teacher continues to enjoy their right to a duty free lunch and a preparation period or not less than 200 minutes of preparation time, as the case may be." Meanwhile, the District must exercise care in denying the Association's request to negotiate over the implementation of the lunch duty schedule. In this case, the District denied that request before meeting with the Association, thus making its decision not to negotiate before it knew whether that request involved matters of impact bargaining. Had the issue of impact been established, the District's obligation to honor the request to negotiate would have been unavoidable.

The unfair labor practice is **DISMISSED**.

So ordered.

Signed this 7th day of July, 1993.

  
EDWARD J. HASELTINE  
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding.  
Members Seymour Osman and E. Vincent Hall present and voting.